

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



KENDRA DUBERRY,
Individually and on behalf of all
others similarly situated)
)
)

Plaintiff,)

v.)

1:16CV1446

ABSOLUTE CARE STAFFING)
HEALTH AGENCY, INC.,)
)

Defendant.)

FINAL ORDER AND JUDGMENT

Plaintiff Kendra Duberry, Individually and on behalf of all others similarly situated, and Defendant Absolute Care Staffing Agency, Inc. have jointly moved the Court for an order granting final approval to the class action settlement in this case, which received preliminary approval on October 31, 2017, [Doc. #25], and Plaintiff has petitioned the Court for an award of attorneys' fees and expenses and an incentive payment. Presently before the Court is a Joint Motion for Final Approval of Class Action and Collective Action Settlement [Doc. #37], Plaintiff's Amended Motion for Approval of Attorneys' Fees and Costs [Doc. #45], and memoranda in support of both motions, and the Court has considered those papers and all exhibits thereto.

Distribution of the Notice of Proposed Class Action Settlement and Final Fairness and Approval Hearing, Claim Form, and Request for Exclusion Form directed to the Class Members has been completed in conformity with the Preliminary Approval Order, including individual notice to all Class Members who

could be identified through reasonable effort, and constitutes the best notice practicable under the circumstances. The Notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed Settlement, to all persons entitled to such Notice, and the Notice fully satisfied the requirements of due process. In addition, the notice included the details of a hearing scheduled to determine whether the settlement should be approved as fair and adequate to the class and to hear any objections.

On March 2, 2018, this Court held the hearing on final approval of the settlement and was advised that no objection to the proposed settlement had been filed. At that hearing, the Court continued the matter for fourteen (14) days to allow for counsel to attempt to contact more class members. Counsel did attempt to contact more class members and were successful. (See Declaration of Scott E. Brady [Doc. #53].)

The Court has considered the factors set forth in In re Jiffy Lube Sec. Lit., 927 F.2d 155, 158-59 (4th Cir. 1991), in determining the fairness of the settlement and has considered the factors set forth in Barber v. Kimbrell's, Inc., 577 F.2d 216, 226 (4th Cir. 1978), in evaluating the request for attorneys' fees. After consideration of all appropriate factors, the arguments of the parties, and the factors set forth in the respective motions and responses, this Court finds:

- 1) The notice to potential members of the class, as required by Federal Rule of Civil Procedure 23, is adequate and sufficient and complies with Rule 23 and the requirements of due process.

- 2) The settlement resulted from serious, informed, noncollusive, arm's length negotiations.
- 3) The settlement is in all respects fair and adequate.
- 4) Approval of the settlement and attorneys' fees is reasonable and should be allowed for the reasons stated in Plaintiff's motions.

IT IS THEREFORE ORDERED that the Joint Motion for Final Approval of Class Action and Collective Action Settlement [Doc. #37] and Plaintiff's Amended Motion for Approval of Attorneys' Fees and Costs [Doc. #45] are **GRANTED**, subject to the following terms and conditions:

- 1) Defendant Absolute Care Staffing Health Agency, Inc. shall pay attorneys' fees in the amount of \$19,427.82 and litigation expenses in the amount of \$1,474.95 to Plaintiff Counsel, Bohrer Brady, LLC and Crumley Roberts; and
- 2) Plaintiff Kendra Duberry is awarded an incentive award in the amount of \$1,000.

This is a final judgment of the Court. However, the Court will retain jurisdiction over any post-judgment issues that may arise from this action.

IT IS SO ORDERED.

This the 23rd day of March, 2018.


Senior United States District Judge